

UNITED STATES DISTRICT COURT

for the
District of New Mexico

FILED
United States District Court
Albuquerque, New Mexico
Mitchell R. Elfers
Clerk of Court

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)
Body of Brian Dull by way of buccal swab

Case No. 22-MR-4

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

the body of Brian Dull

located in the _____ District of _____ New Mexico _____, there is now concealed (identify the person or describe the property to be seized):

DNA which will be extracted by way of a buccal swab.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

| Code Section | Offense Description |
|-----------------------|----------------------------------|
| 18 U.S.C. § 922(g)(1) | Felon in possession of a firearm |

The application is based on these facts:
See attached affidavit, which is incorporated herein by reference.

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


Applicant's signature

Michael Lane Cordova, FBI Special Agent
Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
Telephone _____ (specify reliable electronic means).

Date: 01/03/2022

City and state: Albuquerque, New Mexico


Judge's signature

JERRY H. RITTER, United States Magistrate Judge
Printed name and title

AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT

INTRODUCTION

1. I, Michael Lane Cordova, Special Agent of the Federal Bureau of Investigation (“FBI”), being duly sworn, make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search the body of Brian DULL (born in 1979), to collect Deoxyribonucleic Acid (“DNA”) samples by way of buccal swabs. I believe DULL’S DNA may be present on multiple firearms located at his residence during a home visit conducted under the conditions of his parole on November 23, 2021.
2. DULL is currently a resident at Diersen Charities halfway house pending a hearing on a supervised release violation stemming from a search served by the United States Probation Office (“USPO”) and is currently on conditions of release stemming from felon in possession charges in Bernalillo County, in the District of New Mexico.
3. Because this affidavit is submitted for the limited purpose of seeking a search warrant for an individual, I have not set forth each and every fact learned during the course of this investigation. I have set forth only the facts that I believe are necessary to establish the foundation for an order authorizing the requested search warrant.

PURPOSE OF THE AFFIDAVIT

4. As set forth herein, there is probable cause to believe that DULL committed violations of 18 U.S.C. §§ 922(g)(1) and 924, that being felon in possession of a firearm. Therefore, there is probable cause to collect a DNA sample from DULL via buccal swab in order to compare it with samples collected from the lawfully seized evidence in this case.

AFFIANT’S RELEVANT TRAINING AND EXPERIENCE

5. I am a Special Agent with the Federal Bureau of Investigation and have been so employed since June of 2021. As such, I am a federal law enforcement officer within the meaning of

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Rule 41 of the Federal Rules of Criminal Procedure. I am currently assigned to the Guardian Threat Response (GTR) Squad at the Albuquerque Field Office for the FBI. I have received on the job training from other experienced agents and detectives in the investigations of gang related crimes, narcotics trafficking, and firearms trafficking.

6. As a result of my training and experience, and based on my consultation with other law enforcement officers experienced in investigations, and my knowledge of this investigation, I know the following:

- a. I know that, pursuant to 18 U.S.C. §§ 922(g)(1) and 924, convicted felons must not own or possess firearms, ammunition, destructive devices, or dangerous weapons. Additionally, I know that oftentimes convicted felons will use surrogates as a means of owning or accessing firearms at their residence for the purpose of deterrence and protection. I am also aware that when individuals handle firearms, their DNA is often left behind and detectable by lab technicians.

BACKGROUND

7. On November 23, 2021, the United States Probation Office conducted an unannounced home visit at DULL'S residence. Upon USPO's arrival, officers observed DULL'S vehicle parked at the residence and that there was no license plate on the vehicle. Following the walk-through of DULL'S residence, DULL was asked if the officers could also look through DULL'S vehicle, at which point DULL consented. DULL opened the doors and the trunk of the vehicle, at which point the probation officers observed a large, black rifle case in plain view, located in the trunk of the vehicle next to DULL'S tools. Located within the rifle case was an AM15 rifle. DULL denied knowing the firearm was in the vehicle when questioned by the officers. DULL'S wife, Kayla SHAEFFER, who

AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT

was also present, claimed that the rifle belonged to her. However, SHAEFFER could not tell the officers where she had purchased the rifle and indicated that it was not registered. Officers then asked both DULL and SHAEFFER if there were any other firearms in their possession, to which they both denied possession of any other firearms.

8. An exigent search of DULL'S residence was then conducted. During the search, the USPO officers asked SHAEFFER about the location of her purse and requested permission to search the purse, to which she agreed. SHAEFFER informed the officers that her purse was located at her neighbor's home across the street, where both SHAEFFER and DULL had been present at prior to the arrival of the officers. SHAEFFER gave the officers permission to retrieve her purse from her neighbor's home. Upon locating SHAEFFER'S purse, the officers observed the butt of a firearm sticking out of SHAEFFER'S purse. The firearm was identified to be a loaded .45 caliber handgun. Accompanied with the firearm in SHAEFFER'S purse were two loaded magazines. SHAEFFER stated that the handgun belonged to her, and that her friend usually keeps them for her.
9. Upon questioning, DULL initially denied knowing about the handgun, but then later admitted to knowing about its existence; although, DULL claimed that he had never handled or touched the handgun. However, USPO reported that SHAEFFER admitted that both her and DULL had shot the rifle at some point in the previous month.
10. Based on my review of New Mexico Court records, law enforcement data bases, and discussions with other law enforcement officials, I understand that DULL is a felon with a conviction for the following felony crime:

- a) 1:18CR04162-001WJ: Felon in Possession of a Firearm and Ammunition.

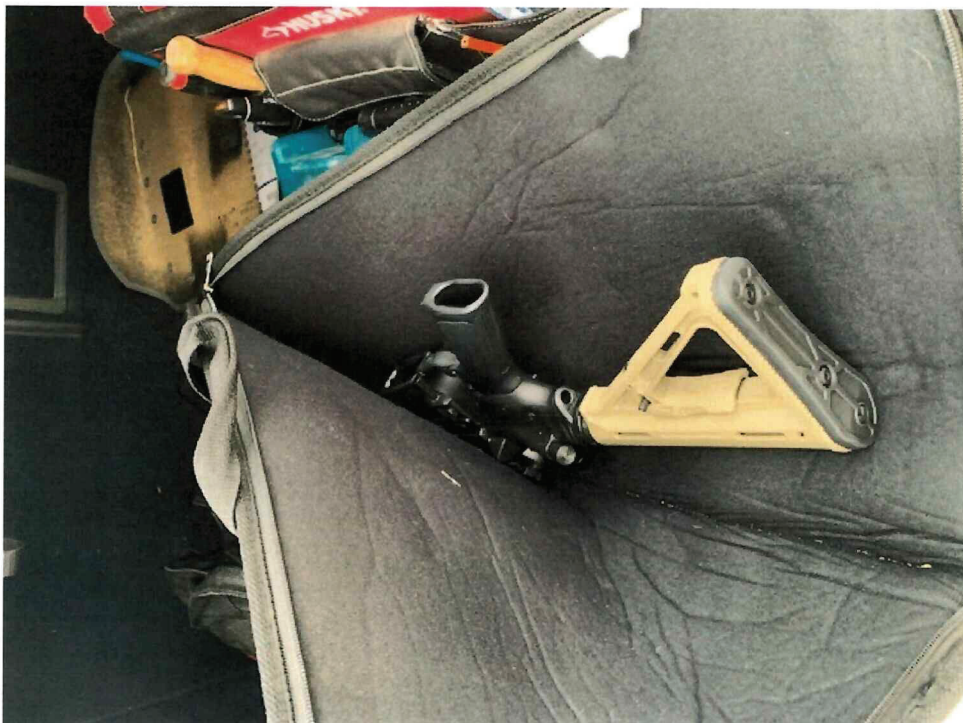
AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT

In addition to his conviction, DULL has countless arrests for battery on a household member, receiving stolen property, and tampering with evidence. DULL is currently on conditions of release stemming from felon in possession charges in Bernalillo County, in the District of New Mexico.

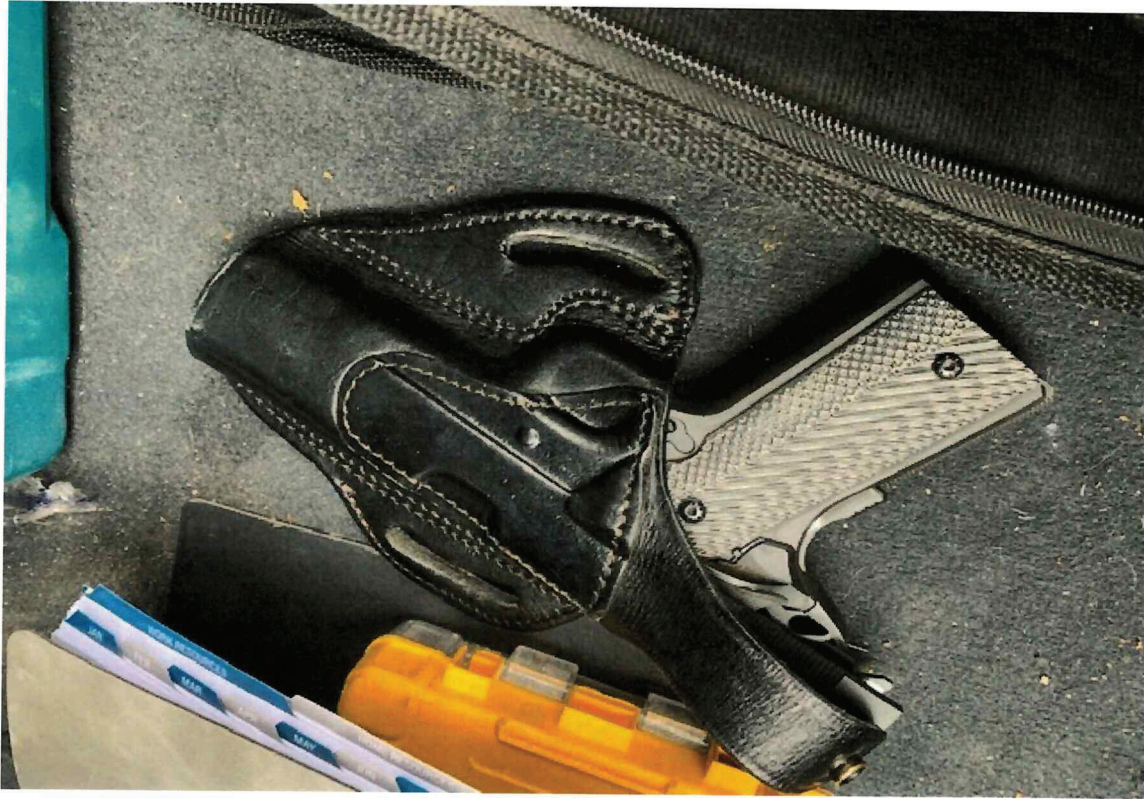
EVIDENCE GATHERED FROM THE SEARCH

11. Officers conducted a consensual search of DULL'S vehicle and other areas that he had access to and located the following:

- a. Anderson Manufacturing multi-caliber rifle bearing serial number: 15123378, positioned in the trunk next to DULL'S tools.
- b. Rock Island Armory .45 caliber pistol bearing serial number: RIA2291206, located in SHAEFFER'S purse.
- c. Pictures shown below



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CONCLUSION

12. The firearms located in DULL'S vehicle and presence are described as an Anderson Manufacturing AM-15 multi-caliber rifle bearing serial number 15123378 and a Rock Island Armory .45 caliber pistol bearing serial number RIA2291206. Special Agent Michael Mostaghni of the FBI Albuquerque Field Office test fired the firearms and they functioned as designed and meet the federal definition of a firearm under 18 U.S.C. § 921. The firearms included the frame and receiver, and based on my training and knowledge, the Anderson Manufacturing AM-15 multi-caliber rifle was manufactured in Hebron, KY and the Rock Island Armory .45 caliber pistol in Marikina, Philippines, i.e. not in the state of New Mexico; therefore establishing that the firearms travelled in and affected interstate commerce before DULL possessed or had access to them.

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13. Based on the details contained herein, I believe there is probable cause that DULL exercised demonstrable control and had access to over the lawfully seized evidence and therefore violated 18 U.S.C. § 922(g)(1), felon in possession of a firearm. As such, I am seeking authorization to collect DNA samples from DULL to be utilized in the examination of the evidence collected in this matter, specifically to compare with any DNA that is found on evidence collected in this matter.
14. As previously mentioned, DULL is currently a resident at the Diersen Charities halfway house pending the conditions of release stemming from felon in possession charges in Bernalillo County, in the District of New Mexico.
15. Based on the aforementioned information, I believe probable cause exists to search DULL for the purpose of obtaining DNA samples by buccal swabs pursuant to Rule 41 of the Federal Rules of Criminal Procedure.
16. This affidavit was approved by Assistant United States Attorney Timothy Trembley.

Respectfully submitted,



Michael Lane Cordova
FBI Special Agent

Subscribed and sworn to telephonically and submitted electronically on January 3rd, 2022:



JERRY H. RITTER
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

PREMISES TO BE SEARCHED

The Body of Brian DULL born in 1979.



ATTACHMENT B

ITEMS TO BE SIEZED

Items to be seized: All evidence, fruits, and instrumentalities of violations of: 18 U.S.C. § 922(g)(1): felon in possession of a firearm; to include the following items:

1. Agents will collect DNA by way of buccal swab.